

§ 950.13

10 CFR Ch. III (1–1–08 Edition)

situations involving abandonment and cancellation by the Program Administrator.

EFFECTIVE DATE NOTE: At 71 FR 46325, Aug. 11, 2006, § 950.12 was revised, effective Sept. 11, 2006. Paragraph (a) of this text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 950.13 Standby Support Contract: General provisions.

(a) *Purpose.* Each Standby Support Contract shall include a provision setting forth an agreement between the parties in which the Department shall provide compensation for covered costs incurred by a sponsor for covered events that result in a covered delay of full power operation of an advanced nuclear facility.

(b) *Covered facility.* Each Standby Support Contract shall include a provision of coverage only for an advanced nuclear facility which is not a federal entity. Each Standby Support Contract shall also include a provision to specify the advanced nuclear facility to be covered, along with the reactor design, and the location of the advanced nuclear facility.

(c) *Sponsor contribution.* Each Standby Support Contract shall include a provision to specify the amount that a sponsor has contributed to funding each type of account.

(d) *Maximum compensation.* Each Standby Support Contract shall include a provision to specify that the Program Administrator shall not pay compensation under the contract:

(1) In an aggregate amount that exceeds the amount of coverage up to \$500 million each for the initial two reactors or up to \$250 million each for the subsequent four reactors;

(2) In an amount for principal or interest costs for which the loan costs exceed the amount deposited in the Program Account; and

(3) In an amount for incremental costs that exceed the amount deposited in the Grant Account.

(e) *Term.* Each Standby Support Contract shall include a provision to specify the date at which the contract commences as well as the term of the contract. The contract shall enter into

force on the date it has been signed by both the sponsor and the Program Administrator. Subject to the cancellation provisions set forth in paragraph (f) of this section, the contract shall terminate when all claims have been paid up to the full amounts to be covered under the Standby Support Contract, or all disputes involving claims under the contract have been resolved in accordance with subpart D of this part.

(f) *Cancellation provisions.* Each Standby Support Contract shall provide for cancellation in the following circumstances:

(1) If the sponsor abandons construction, and the abandonment is not caused by a covered event or force majeure, the Program Administrator may cancel the Standby Support Contract by giving written notice thereof to the sponsor and the parties have no further rights or obligations under the contract.

(2) If the sponsor does not require continuing coverage under the contract, the sponsor may cancel the Standby Support Contract by giving written notice thereof to the Program Administrator and the parties have no further rights or obligations under the contract.

(3) For such other cause as agreed to by the parties.

(g) *Termination by sponsor.* Each Standby Support Contract shall include a provision that prohibits a sponsor or any related party from executing another Standby Support Contract, if the sponsor elects to terminate its original existing Standby Support Contract, unless the sponsor has cancelled or terminated construction of the reactor covered by its original existing Standby Support Contract.

(h) *Assignment.* Each Standby Support Contract shall include a provision on assignment of a sponsor's rights and obligations under the contract and assignment of payment of covered costs. The Program Administrator shall permit the assignment of payment of covered costs with prior written notice to the Department. The Program Administrator shall permit assignment of rights and obligations under the contract with the Department's prior approval. The sponsor may not assign its

rights and obligations under the contract without the prior written approval of the Program Administrator and any attempt to do so is null and void.

(i) *Claims administration.* Each Standby Support Contract shall include a provision to specify a mechanism for administering claims pursuant to the procedures set forth in subpart C of this part.

(j) *Dispute resolution.* Consistent with the Administrative Dispute Resolution Act, each Standby Support Contract shall include a provision to specify a mechanism for resolving disputes pursuant to the procedures set forth in subpart D of this part.

(k) *Re-estimation.* Consistent with the Federal Credit Reform Act (FCRA) of 1990, the sponsor shall provide all needed documentation as required in § 950.12 to allow the Department to annually re-estimate the loan cost needed in the financing account as that term is used in 2 U.S.C. 661a(7) and funded by the Program Account. "The sponsor is neither responsible for any increase in loan costs, nor entitled to recoup fees for any decrease in loan costs, resulting from the re-estimation conducted pursuant to FCRA.

§ 950.14 Standby Support Contract: Covered events, exclusions, covered delay and covered cost provisions.

(a) *Covered events.* Subject to the exclusions set forth in paragraph (b) of this section, each Standby Support Contract shall include a provision setting forth the type of events that are covered events under the contract. The type of events shall include:

(1) The Commission's failure to review the sponsor's inspections, tests, analyses and acceptance criteria in accordance with the Commission's rules, guidance, audit procedures, or formal opinions, in the case where the Commission has in place any rules, guidance, audit procedures or formal opinions setting schedules for its review of inspections, tests, analyses, and acceptance criteria under a combined license or the sponsor's combined license;

(2) The Commission's failure to review the sponsor's inspections, tests, analyses, and acceptance criteria on

the schedule for such review proposed by the sponsor, subject to the Department's review and approval of such schedule, including review of any informal guidance or opinion of the Commission that has been provided to the sponsor or the Department, in the case where the Commission has not provided any rules, guidance, audit procedures or formal Commission opinions setting schedules for review of inspections, tests, analyses and acceptance criteria under a combined license, or under the sponsor's combined license;

(3) The conduct of pre-operational Commission hearings, that are provided for in 10 CFR part 52, after issuance of the combined license; and

(4) Litigation in State, Federal, local, or tribal courts, including appeals of Commission decisions related to an application for a combined license to such courts, and excluding administrative litigation that occurs at the Commission related to the combined license.

(b) *Exclusions.* Each Standby Support Contract shall include a provision setting forth the exclusions from covered costs under the contract, and for which any associated delay in the attainment of full power operations is not a covered delay. The exclusions are:

(1) The failure of the sponsor to take any action required by law, regulation, or ordinance, including but not limited to the following types of events:

(i) The sponsor's failure to comply with environmental laws or regulations such as those related to pollution abatement or human health and the environment;

(ii) The sponsor's re-performance of any inspections, tests, analyses or redemonstration that acceptance criteria have been met due to Commission non-acceptance of the sponsor's submitted results of inspections, tests, analyses, and demonstration of acceptance criteria;

(iii) Delays attributable to the sponsor's actions to redress any deficiencies in inspections, tests, analyses or acceptance criteria as a result of a Commission disapproval of fuel loading; or

(2) Events within the control of the sponsor, including but not limited to delays attributable to the following types of events: